

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

KEVIN EPPERSON	:	
	:	
Plaintiff,	:	
v.	:	C.A. No. 07C-12-101 JAP
	:	
ALETHIA T. HICKSON,	:	
MARCELLUS JONES and	:	
MARCUS JONES	:	
	:	
Defendants.	:	

ORDER

This 2nd day of February 2009, it appears to the Court that:

1. Plaintiff Kevin Epperson filed a *pro se* complaint in this Court against Defendants Alethia Hickson and Marcellus Epperson on December 11, 2007. Ms. Hickson was served with the complaint and she filed a *pro se* answer on February 19, 2008.
2. On March 18 and again on June 26, 2008, the Court wrote to Plaintiff letters informing him that if Defendant Marcellus Epperson was not timely served in accordance with Superior Court Civil Rule 4(j), the claims against him would be dismissed.

3. On August 7, 2008, Plaintiff, with the Court's permission, amended his complaint removing Marcellus Epperson as a defendant and adding Marcellus Jones and Marcus Jones as defendants. On October 28, 2008 the Court sent Plaintiff a letter indicating that if he failed to timely serve Defendants Marcellus Jones and Marcus Jones in accordance with Rule 4(j), the claims against them would be dismissed.

4. Plaintiff then filed a motion for extension of time for service. On December 18, 2008, the Court granted his motion, stating that Plaintiff could have until January 31, 2009 to serve Marcellus Jones and Marcus Jones, otherwise the Court would dismiss Plaintiff's claims against them. In addition, the Court's order stated that it would not grant any further extensions for service. To date, Marcellus Jones and Marcus Jones have not been served. Therefore, in accordance with the Court's December 18, 2008 order, Plaintiff's claims against Marcellus Jones and Marcus Jones are dismissed.

5. The Plaintiff's remaining claims are asserted against Defendant Alethia Hickson. Ms. Hickson is Plaintiff's sister and the administrator of their mother's estate. Plaintiff's claims against her allege, in essence, that Ms. Hickson did not properly administer the estate. Plaintiff has already presented these same claims to the Court of Chancery. After Ms. Hickson

filed an inventory and final accounting of her mother's estate with the Register of Wills, Plaintiff took exception to both and requested a hearing. After a hearing, a Master in Chancery submitted a final report, which was adopted by the Court of Chancery.¹ Plaintiff appealed that decision to the Delaware Supreme Court, but his appeal was dismissed for failure to diligently prosecute the appeal.²

6. In this Court's December 18, 2008 order, the Court directed Plaintiff to submit an explanation of why his complaint should not be dismissed (1) for lack of subject matter jurisdiction and (2) pursuant to the doctrine of *res judicata*. Plaintiff's response contains no legally cognizable arguments. For example, he states:

Superior Court already had jurisdiction generally. Change in the circumstances clearly shows that. Dismissing [Plaintiff's] complaint would be unjust prejudice because Chancery Court's decision coincides with complaint in Superior Court. [Plaintiff] must have a meaningful opportunity to present a complete defense. Therefore Superior Court has subject matter jurisdiction. Jurisdiction over the nature of the case and the type of relief sought.³

7. This Court has no jurisdiction to hear Plaintiff's claims against Ms. Hickson because suits concerning the administration of estates are within the jurisdiction of the Court of Chancery.⁴ Moreover, these issues have already

¹ *In re Estate of Jones*, 2008 WL 731666 (Del. Ch.)

² *Epperson v. Hickson*, 2008 WL 5234375 (Del. Supr.)

³ Def. Explanation, D.I. 24, at 1-2.

⁴ *Pamintuan and Lacdao-Pamintuan M.D., P.A. v. Dosado*, 2000 WL 305500 (Del. Super.) (citing *In re Ortiz' Estate*, 27 A.2d 368, 373 (Del. 1942)) (dismissing the

been litigated in the Court of Chancery and therefore relitigation of these claims is barred by the doctrine of *res judicata*.⁵ Accordingly, Plaintiff's claims against Ms. Hickson are dismissed.

IT IS SO ORDERED.

John A. Parkins, Jr.

cc: Prothonotary

plaintiff's claim against the defendant as executor of an estate for breach of fiduciary duty).

⁵ *Wilson v. Danberg*, 2008 WL 4290945 (Del. Supr.) (“Under the doctrine of *res judicata*, a party is prohibited from bringing a second lawsuit on the same issue involving the same parties after a judgment already has been entered on the matter.”).